

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

HERBERT W. BROWN, III, et al.

Plaintiffs,

v.

**COLEGIO DE ABOGADOS DE
PUERTO RICO,**

Defendant

CIVIL NO: 06-1645 (JP)

CLASS ACTION

**INFORMATIVE MOTION REGARDING DEFENDANT COLEGIO DE ABOGADOS’
FLAGRANT VIOLATION OF THE COURT’S NOVEMBER 12, 2010 ORDER**

TO THE HONORABLE COURT:

APPEAR NOW the Class Plaintiffs (the “Classes” or “Plaintiffs”), through the undersigned legal representation, and very respectfully state, allege and request as follows:

On November 12, 2010, the Court issued an Order regarding the defendant Colegio de Abogados’ (“Colegio”) misleading and improper communications with Class members. The terms of this Court’s Order were clear and unambiguous:

Accordingly, the Court hereby **PROHIBITS** Defendant Colegio and any and all attorneys representing Defendant in the instant case, without prior leave of Court, from engaging in any direct or indirect contact or communication with any class members regarding this litigation or the claims therein until class notice has been provided and the opt out procedures have been completed. (Docket 202 at 15.)

Incredibly, despite this clear admonition, the Plaintiffs have become informed that the Colegio, in open and flagrant violation of this Court’s Order, sent out another e-mail to its members on November 17, 2010. *See Exhibit A.*¹ As the Colegio’s e-mail comes a mere five (5) days after

¹ A certified translation of this will be filed shortly.

the Court issued its clear and specific order, this news is breathtaking.

The Colegio's November 17 e-mail is a crass violation of this Court's Order. For starters, the Colegio contemptuously sent out this e-mail without requesting "prior leave of Court," as the Court's Order expressly requires. Moreover, the Colegio's improper and unauthorized communication refers specifically to this litigation – again in violation of the Court's Order – and contains the by-now customary broadsides and baseless accusations that this Court described in its November 12, 2010 as the most troubling aspect of the Colegio's previous offending e-mail.²

The Plaintiffs are in the process of determining what would constitute an appropriate remedy for the Colegio's astounding violation, which evinces an obvious intent to cause irreparable harm. Nevertheless, the Plaintiffs also wish to inform and alert the Court as to what has happened here, because the temerity of the Colegio's actions represents a direct affront to this Court's authority and to the judicial system.

Beyond the Colegio's costly decision to violate its members' federal constitutional rights, its latest actions seek to violate the integrity of this Court. The situation here is aggravated by the fact that these are attorneys we are talking about: they *know* that a flagrant violation of a Court order carries serious consequences. And yet, as seems evident from its decision to openly disregard the Court's November 12 Order, the Colegio apparently believes itself to be above the law.

² To note just one example, the Colegio's e-mail contains a string of disparaging remarks regarding the language of the class notice, and disingenuously suggests that the "class" (always with scare quotes, to de-legitimize this Court's decision certifying the class, and the First Circuit's affirmance of that decision) is supposedly trying to keep some members in the dark. This is just rich. The reason for *this entire case* is that the Colegio flagrantly violated its members' federal constitutional rights and kept them *in the dark* about the fact that the Colegio's compulsory life insurance scheme was unconstitutional. If the Colegio had spent half the time trying to inform its members about their constitutional rights as it has spent time trying to mislead them, it might not have found itself in this predicament.

Rarely does a party – any party – exhibit such naked contempt in a court proceeding.

WHEREFORE, the Classes respectfully inform this Honorable Court of the defendant Colegio de Abogados' November 17, 2010 e-mail to Class members, which flagrantly violates the clear and unambiguous terms of the Court's November 12, 2010 Order.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico on this 18th day of November, 2010.

CERTIFICATE OF SERVICE: I hereby certify that on this same date, I filed the preceding motion with the Court's CM/ECF system which will notify all counselors of record.

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